

## EXHIBIT 9

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**From:** Provance, Matthew D. <MProvance@mayerbrown.com>  
**Sent:** Monday, August 06, 2018 4:45 PM  
**To:** McKenna, Elizabeth; Michaels, Jessica A.  
**Cc:** DMSTeam; FW-CLIENT-CDK-MDL-Team; 'Ho, Derek T.' (dho@kellogghansen.com); 'Nemelka, Michael N. (mnemelka@kellogghansen.com)'  
**Subject:** RE: In Re DMS - 4,500 Placeholder Documents

Dear Liz –

We agree that the Dealership Plaintiffs' prior disclosure motion (the one filed on July 30) already includes the issues that they intend to raise regarding the "Category 2" documents that are discussed in our additional correspondence last week and over the weekend. Our position as to those documents is the same as we explained during our meet-and-confers leading up to Plaintiffs' July 30 motion and in our July 27 letter (Ex. 11 to the July 30 motion). In your email yesterday, you declared the parties to be at impasse unless CDK was willing to reconsider its position and produce the "Category 2" documents to Dealership Plaintiffs. Our position has not changed. Therefore, it does appear that we remain at impasse, and we agree that these issues were addressed during the prior meet-and-confers. While we are always willing to talk about disputed issues, in this instance it would appear that the issues have already been thoroughly vetted by the parties.

Regards,  
Matt

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**From:** McKenna, Elizabeth [mailto:emckenna@milberg.com]  
**Sent:** Monday, August 06, 2018 1:35 PM  
**To:** Provance, Matthew D.; Michaels, Jessica A.  
**Cc:** DMSTeam; FW-CLIENT-CDK-MDL-Team; 'Ho, Derek T.' (dho@kellogghansen.com); 'Nemelka, Michael N. (mnemelka@kellogghansen.com)'  
**Subject:** RE: In Re DMS - 4,500 Placeholder Documents

Matt,

As I haven't heard from you, I'm writing to follow-up on my request for a meet and confer yesterday or today. As I emailed you yesterday, we intend to file a motion to compel the disclosure of certain documents under Category 2. I know the parties are all busy with today's deadline, and based on our prior positions on the waiver issue, and the fact we've already filed a Disclosure Motion that includes this issue, I assume CDK will not be producing Category 2 documents. If that is the case, the parties are at an impasse. Please let me know if you feel otherwise, and if so, then I'm happy to discuss further this afternoon. Otherwise, we will plan to file our motion today.

Thanks,  
Liz

**From:** McKenna, Elizabeth

**Sent:** Sunday, August 05, 2018 1:30 PM

**To:** 'Provance, Matthew D.'; Michaels, Jessica A.

**Cc:** DMSTeam; FW-CLIENT-CDK-MDL-Team; 'Ho, Derek T.' (dho@kelloggghansen.com); Nemelka, Michael N. (mnemelka@kelloggghansen.com)

**Subject:** RE: In Re DMS - 4,500 Placeholder Documents

Matt,

We appreciate you providing the information requested. As I stated previously, the reason we asked for the information was in an attempt to narrow the issues and determine whether we will pursue certain categories of documents in a motion to compel. Based on the information you provided, we will not be including the documents in Categories 1 and 3 in a motion to compel. We will also be narrowing the number of documents you identified for Category 2.

As the remaining documents in Category 2 fall within our waiver argument (but were not clawed back from Dealership Plaintiffs by CDK), and we were at an impasse on this issue in reference to the Disclosure Motion, we intend to file a motion to compel regarding these documents. However, I am available and would like to meet and confer on this issue this afternoon, 9:30 am central tomorrow, or another time convenient for you.

Thanks,

Liz

Elizabeth McKenna

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